

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 50234

Petitioner:

HELEN JAMES LLC,

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
COMMISSIONERS.**

ORDER RETAINING JURISDICTION

THIS MATTER was heard by the Board of Assessment Appeals on August 5, 2009, Diane M. DeVries, Louesa Maricle, and Karen E. Hart presiding. Petitioner was represented by Victor Boog, Esq. Respondent was represented by David Wunderlich, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2007.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**Lot 2, Burleson Ranch Subdivision
(Jefferson County Schedule No. 451892)**

The subject property consists of an approximately 11.582 acre vacant land parcel located in unincorporated Jefferson County.

The subject property has been leased and operated by the Braun family since the 1920s as part of their ranching operation, consisting of 1,500 acres to 2,000 acres. Exhibit 4 is a lease between the Braun Family Trust and Clarence Burleson executed in 1999 and renewed each year through 2008. The subject property is not separately fenced and is wholly contained within the Braun's larger fenced ranching operation.

Petitioner's witness, Mr. Charles "Art" Braun, testified that he must lease the subject property as it is grazed by his cattle and not separately fenced from his larger property. The Brauns usually graze about 100 head (50 cow/calf pairs) on the fenced property which includes both their land and Petitioner's land. The cattle are rotated amongst seven fenced pastures, which he believes explains the lack of grazing evidence when inspected by Respondent. The subject property is used for winter pasture. The water is half provided by a spring and half supplied by a creek. There are also water sources on the Brauns' property; there are no water wells. Two sides of the subject parcel abut the Brauns' larger ranch.

Cattle are on the subject and the larger ranch usually from September or October through February each year. The cattle are rounded up in the spring of the year and then taken to other pasture, which has occurred each year including 2005, 2006, and 2007. Rent in the amount of \$250.00 per year was paid by the Brauns in 2005, 2006, and 2007.

Petitioner's witness Ms. Peggy B. Graham, Manager of Helen James, LLC since 2006, testified that she has walked the subject property extensively since its purchase in 1998 by herself and with her parents. Clarence Burleson was her father; he signed the lease extension marked as Exhibit 4. Her father has since passed away; the members of the LLC are herself and her mother, Helen C. Burleson.

In 2006, the Burleson Ranch was subdivided into four properties, of which one is the subject property. Photographs presented in Petitioner's Exhibits 2A-D show the spring and detention pond on the subject property. The spring does not freeze; it flows year-round. The property is zoned agricultural. Ms. Graham has personally seen cattle on the property.

Petitioner is requesting a 2007 actual value of approximately \$47.00 per acre with an agricultural grazing land classification.

Respondent's witness, Mr. David Niles, an appraiser with the Jefferson County Assessor's office, presented four comparable sales ranging in sales price from \$250,000.00 to \$435,000.00 and in size from 2.870 acres to 12.590 acres. No adjustments were made to the sales. Mr. Niles presented no value conclusion for the subject property.

Mr. Niles testified that he and others from the Assessor's office have visited the subject property at least twice a year since its platting in 2006. He inspected the property himself once, but not prior to its platting. There were no inspections during the time period that Mr. Braun testified the cattle were on the subject property. Mr. Niles has never seen cattle or cattle droppings. There is a seasonal stream with riprap in it, a ravine, and up to 50 degree slopes. He believes cattle would have difficulty getting to the water. There are two meadow areas which are about 10-15% of the subject land. He believes the property is correctly classified as vacant land.

Respondent assigned vacant land classification and an actual value of \$465,280.00 to the subject property for tax year 2007.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly classified and valued for tax year 2007.

Section 39-1-102(1.6)(a), C.R.S. states:

“Agricultural land”, whether used by the owner of the land or a lessee, means one of the following: (I) A parcel of land, whether located in an incorporated or unincorporated area and regardless of the uses for which such land is zoned, that was used the previous two years and presently is used as a farm or ranch, as defined in subsections (3.5) and (13.5) of this section, or that is in the process of being restored through conservation practices. Such land must have been classified or eligible for classification as "agricultural land", consistent with this subsection (1.6), during the ten years preceding the year of assessment.

Section 39-1-102(13.5), C.R.S. states:

"Ranch" means a parcel of land which is used for grazing livestock for the primary purpose of obtaining a monetary profit. For the purposes of this subsection (13.5), "livestock" means domestic animals which are used for food for human or animal consumption, breeding, draft, or profit.

It is undisputed that a lease exists on the subject property. The Board is convinced that the lease has been executed by the lessee and compensation has been exchanged. The Board is further convinced that the subject property has been used the previous two years and is presently used as a ranch, winter pasture for cattle, as part of the larger agricultural unit of the Braun Family Trust.

The Board concludes that the subject property qualifies for an agricultural grazing land classification for tax year 2007.

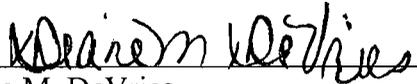
ORDER:

Respondent is ordered to provide the Board with the 2007 actual value of the subject property as agricultural grazing land within 14 calendar days of the date of this Order.

Petitioner may respond to the 2007 actual value provided by Respondent in accordance with the preceding paragraph within 7 calendar days of the receipt of the value.

DATED and MAILED this 1st day of October 2009.

BOARD OF ASSESSMENT APPEALS



Diane M. DeVries



Louesa Maricle



Karen E. Hart

I hereby certify that this is a true
and correct copy of the decision of
the Board of Assessment Appeals.



Heather Flannery



<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>HELEN JAMES LLC,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 50234</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 5, 2009, Diane M. DeVries, Louesa Maricle, and Karen E. Hart presiding. Petitioner was represented by Victor Boog, Esq. Respondent was represented by David Wunderlich, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2007.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**Lot 2, Burleson Ranch Subdivision
(Jefferson County Schedule No. 451892)**

The subject property consists of an approximately 11.582 acre vacant land parcel located in unincorporated Jefferson County.

Petitioner is requesting a 2007 actual value of approximately \$47.00 per acre with an agricultural grazing land classification. Respondent assigned vacant land classification and an actual value of \$465,280.00 to the subject property for tax year 2007.

On October 1, 2009 the Board issued an Order Retaining Jurisdiction concluding that the 2007 classification of the subject property should be agricultural grazing land and ordering Respondent to provide the Board with the 2007 actual value of the subject property as agricultural

grazing land within 14 days of the date of the Order Retaining Jurisdiction. As of November 4, 2009 the Board has not received this value from Respondent.

Since Respondent has not responded to the Board's Order Retaining Jurisdiction dated October 1, 2009, the Board grants Petitioner's requested value of \$47.00 per acre. The Board concludes the 2007 actual value of the subject property should be \$545.00

ORDER:

Respondent is ordered to classify the subject property as agricultural grazing land and reduce the actual value to \$545.00 for tax year 2007.

The Jefferson County Assessor is directed to change his/her records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

This decision was adopted by the Board at a public meeting held November 4, 2009,
and mailed this 16th day of November 2009.

BOARD OF ASSESSMENT APPEALS

Diane M DeVries

Diane M. DeVries

Louesa Maricle

Louesa Maricle

Karen E Hart

Karen E. Hart

I hereby certify that this is a true
and correct copy of the decision of
the Board of Assessment Appeals.

HA Flannery

Heather Flannery

